

## § 930.1

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### Subpart—Order Regulating Handling

#### DEFINITIONS

#### § 930.1 Act.

*Act* means Public Act No. 10, 73d Congress (May 12, 1933), as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended, 68 Stat. 906, 1047; 7 U.S.C. 601 *et seq.*).

#### § 930.2 Board.

*Board* means the Cherry Industry Administrative Board established pursuant to § 930.20.

#### § 930.3 Cherries.

*Cherries* means all tart/sour cherry varieties grown in the production area classified botanically as *Prunus cerasas*, or hybrids of *Prunus cerasas* by *Prunus avium*, or *Prunus cerasas* by *Prunus fruticosa*.

#### § 930.4 Crop year.

*Crop year* means the 12-month period beginning on July 1 of any year and ending on June 30 of the following year, or such other period as the Board, with the approval of the Secretary, may establish.

#### § 930.5 Department or USDA.

*Department* or *USDA* means the United States Department of Agriculture.

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#### § 930.6 District.

*District* means one of the subdivisions of the production area described in § 930.20(c), or such other subdivisions as may be established pursuant to § 930.21, or any subdivision added pursuant to § 930.52.

#### § 930.7 Fiscal period.

*Fiscal period* is synonymous with fiscal year and means the 12-month period beginning on July 1 of any year and ending on June 30 of the following year, or such other period as the Board, with the approval of the Secretary, may establish: *Provided*, that the initial fiscal period shall begin on the effective date of this part.

#### § 930.8 Free market tonnage percentage cherries.

*Free market tonnage percentage cherries* means that proportion of cherries handled in a crop year which are free to be marketed in normal commercial outlets in that crop year under any volume regulation established pursuant to § 930.50 or § 930.51 and, in the absence of a restricted percentage being established for a crop year pursuant to § 930.50 or § 930.51, means all cherries received by handlers in that crop year.

#### § 930.9 Grower.

*Grower* is synonymous with *producer* and means any person who produces cherries to be marketed in canned, frozen, or other processed form and who has a proprietary interest therein: *Provided* that, the term *grower* shall not include a person who produces cherries to be marketed exclusively for the fresh market in an unpitted condition.

#### § 930.10 Handle.

*Handle* means the process to brine, can, concentrate, freeze, dehydrate, pit, press or puree cherries, or in any other way convert cherries commercially into a processed product, or divert cherries pursuant to § 930.59 or obtain grower diversion certificates issued pursuant to § 930.58, or otherwise place cherries into the current of commerce within the production area or from the area to points outside thereof: *Provided*, That the term *handle* shall not include:

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(a) The brining, canning, concentrating, freezing, dehydration, pitting, pressing or the converting, in any other way, of cherries into a processed product for home use and not for resale.

(b) The transportation within the production area of cherries from the orchard where grown to a processing facility located within such area for preparation for market.

(c) The delivery of such cherries to such processing facility for such preparation.

(d) The sale or transportation of cherries by a grower to a handler of record within the production area.

(e) The sale of cherries in the fresh market in an unpitted condition.

### § 930.11 Handler.

*Handler* means any person who first handles cherries or causes cherries to be handled for his or her own account.

### § 930.12 Person.

*Person* means an individual, partnership, corporation, association, or any other business unit.

### § 930.13 Primary inventory reserve.

*Primary inventory reserve* means that portion of handled cherries that are placed into handlers' inventories in accordance with any restricted percentage established pursuant to § 930.50 or § 930.51.

### § 930.14 Production area.

*Production area* means the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington and Wisconsin.

### § 930.15 Restricted percentage cherries.

*Restricted percentage cherries* means that proportion of cherries handled in a crop year which must be either placed into handlers' inventories in accordance with § 930.55 or § 930.57 or otherwise diverted in accordance with § 930.59 and thereby withheld from marketing in normal commercial outlets under any volume regulation established pursuant to § 930.50 or § 930.51.

### § 930.16 Sales constituency.

*Sales constituency* means a common marketing organization or brokerage

firm or individual representing a group of handlers and growers. An organization which receives consignments of cherries and does not direct where the consigned cherries are sold is not a sales constituency.

[66 FR 35896, July 10, 2001]

### § 930.17 Secondary inventory reserve.

*Secondary inventory reserve* means any portion of handled cherries voluntarily placed into inventory by a handler under § 930.57.

### § 930.18 Secretary.

*Secretary* means the Secretary of Agriculture of the United States, or any officer or employee of the U.S. Department of Agriculture to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

## ADMINISTRATIVE BODY

### § 930.20 Establishment and membership.

(a) There is hereby established a Cherry Industry Administrative Board, the membership of which shall be calculated in accordance with paragraph (b) of this section. The number of Board members may vary, depending upon the production levels of the districts. All but one of these members shall be qualified growers and handlers selected pursuant to this part, each of whom shall have an alternate having the same qualifications as the member for whom the person is an alternate. One member of the Board shall be a public member who, along with his or her alternate, shall be elected by the Board from the general public.

(b) District representation on the Board shall be based upon the previous three-year average production in the district and shall be established as follows:

(1) Up to and including 10 million pounds shall have 1 member;

(2) Greater than 10 and up to and including 40 million pounds shall have 2 members;

(3) Greater than 40 and up to and including 80 million pounds shall have 3 members; and

(4) Greater than 80 million pounds shall have 4 members; and